

REMARKS

Claims 1-26 are pending in this application. Claims 1-13 and 20-26 have been withdrawn from reconsideration. Claims 18 and 19 have been amended.

In the Office Action, the Examiner objected to the drawings because the abscissa and ordinate in Fig. 3 lack labels. A corrected drawing sheet has been submitted herewith labeling the axes of Fig. 3 according to the disclosure on page 19, lines 1-6 of the present application.

Claims 14-19 have been rejected under 35 U.S.C. § 102(b) as being anticipated by US 2001/0007924 A1 (Kamada). This rejection is respectfully traversed. Applicant hereby requests reconsideration and allowance of the claims in view of the following arguments.

Regarding the anticipation rejection of independent claim 14, despite contentions to the contrary in the Office Action, Kamada does not disclose or even suggest the recited correcting unit that corrects a parameter value associated with a measured bioelectrical impedance. Nowhere does Kamada mention correction or modification of a parameter associated with a measured bioelectrical impedance. At page 4 of the Office Action, steps S15 and S16 of Kamada are analogized to the claimed correcting unit. However, this is not a valid comparison. As explained at paragraphs 60-61 of Kamada, various body composition values are calculated at step S15, and stored at step 16. No correction of any parameter is disclosed in these steps, or anywhere else in Kamada.

The body composition values calculated and stored by Kamada include an intracellular/extracellular fluid ratio. This ratio is used by the claimed invention by the recited correcting unit to correct an impedance parameter value. However, Kamada does not disclose or suggest using this ratio to correct an impedance parameter value, as claimed. Kamada simply calculates it, and displays it in step S17 (see Fig. 2 of Kamada). Calculating and displaying a ratio is not the same as using it to correct an impedance parameter value. Kamada does not

disclose an apparatus that uses the intracellular/extracellular fluid ratio as claimed.

Furthermore, since Kamada does not disclose the recited correcting unit for correcting a parameter value, it cannot disclose the recited computing unit of claim 14, that computes an index based on the corrected parameter value.

Kamada does not anticipate independent claim 14, because it does not disclose the recited correcting unit or body composition computing unit. Moreover, it would not have been obvious to modify the apparatus of Kamada to add these features to yield the invention of claim 14.

Consequently, claim 14 is patentable, as are claims 15-19, which depend from claim 14.

Further regarding dependent claim 17, Kamada does not teach correcting any parameters, so it cannot disclose the correcting unit of claim 17 which corrects any of the parameters listed in claim 17.

Consequently, claim 17 is further and separately patentable.

Further regarding dependent claims 18 and 19, it is contended in the Office Action that these claims are product-by-process claims and/or intended use claims. Applicant disagrees, because these claims further define the structure of the recited correcting unit of claim 14. Nevertheless, claim 18 has been amended for clarity to recite that the correcting unit is for correcting a bioelectrical impedance parameter in accordance with a particular correction expression. No new matter has been added. Thus, amended claim 18 (and claim 19, which depends from claim 18) place additional requirements on the correcting unit; in other words, they properly use functional limitations to specify the structure of the correcting unit.

Applicant notes that, even assuming *arguendo* that claims 18 and 19 contain product-by-process limitations, the Examiner needs to show where the process steps therein are disclosed in the prior art. The Examiner has not made such a showing in the Office Action. Rather, the

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Examiner has improperly ignored those limitations of the claims. Therefore, the anticipation rejection of claims 18 and 19 based on Kamada is improper and should be withdrawn.

Consequently, claims 18 and 19 are further and separately patentable.

Accordingly, it is believed that all pending claims are now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Michael A. Messina

Registration No. 33,424

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MAM:llg
Facsimile: 202.756.8087
Date: February 6, 2007

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